

Message Text

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PAGE 01 CAIRO 11658 171920Z

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SUBJECT: TAX OBVIATION PROVISION OF NEW AUC PROTOCOL

REF: CAIRO 11597

1. DEPUTY PRIMIN/MIN HIGHER EDUCATION HAFIZ GHANEM APPROACHED ME TODAY ABOUT THE NEW AUC PROTOCOL REPORTED REFTEL. HE RECOUNTED THAT, WHEN DISCUSSING THE SIGNED DOCUMENT WITH FAHMY, THE LATTER NAD NOTED RECENTLY SIGNED USG-GOE TAX TREATY AND CONTENTED THAT THIS TREATY SHOULD OBVIATE THE NEED FOR ANY TAX PROVISION IN THE AUC PROTOCOL. GHANEM OBSERVED THAT THE TASK OF EXPEDITING RATIFICATION OF AUC PROTOCOL WOULD BE GREATLY FACILITATED IF ITS TAX OBVIATION PROVISION WERE DELETED. IN THAT CASE, IT COULD BE RATIFIED WITH SIMPLE PRESIDENTIAL DECREE. INCLUSION OF TAX OBVIATION PROVISION REQUIRES REFERENCE TO PEOPLES ASSEMBLY TO OBTAIN CHANGE IN EXISTING EGYPTIAN PERSONAL INCOME TAX LAW. IF PEOPLES ASSEMBLY APPROVAL NEEDED (A) THIS WILL TAKE CONSIDERABLE TIME (B) TAX OBVIATION PROVISION MAY WELL BE CHALLENGED AND, GHANEM WAS SURE, AT THE VERY LEAST EGYPTIAN EMPLOYEES OF AUC WOULD NOT RPT NOT BE ALLOWED RECEIVE SUCH BENEFITS. I SUGGESTED TO GHANEM THAT A LEGAL ADVISORY OPINION SHOULD FIRST BE OBTAINED AS TO WHETHER THE NEW USG-GOE TAX TREATY COVERS THIS MATTER. IT WAS MY PERSONAL

UNCLASSIFIED

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PAGE 02 CAIRO 11658 171920Z

VIEW THAT IT DOES NOT DO SO. I UNDERTOOK SEEK

LEGAL COUNSEL AND ALSO TO DISCUSS THE MATTER WITH FAHMY.

2. WE HAVE NOT YET BEEN ABLE PREPARE TRANSMITTAL AIRGRAM GIVING TEXT OF ENTIRE AUC PROTOCOL. HENCE, IN ORDER TO PERMIT DEPT CONSIDER QUESTION, TEXT OF ARTICLE VI THEREOF FOLLOWS: QUOTE THE AMERICAN UNIVERSITY, AS A CULTURAL INSTITUTE, DOES NOT AIM AT MATERIAL PROFIT. THE EGYPTIAN GOVERNMENT, IN RECOGNITION OF THIS, AGREES THAT ALL NATIONAL TAXES OR SALARIES AND WAGES PAID FROM PL 480 FUNDS SHALL BE OBTAINED. UNQUOTE

3. I WOULD BE GRATEFUL FOR DEPT/AID LEGAL OPINION WHETHER OUR NEW TAX TREATY MAKES INCLUSION OF SECOND SENTENCE OF ARTICLE VI UNNECESSARY AS EGYPTIANS OBVIOUSLY HOPE.

4. I HAVE ADVISED AUC PRESIDENT BYRD ABOUT GHANEM'S APPROACH. HE NOTES THAT DOUBT TAXATION IS NOT INVOLVED WITH AMERICAN AUC INSTRUCTORS. HENCE, IF EGYPTIAN EMPLOYEES OF AUC ARE NOT LIKELY TO BENEFIT FROM TAX OBTAINMENT PROVISION OF NEW PROTOCOL, HE SEES NO POINT IN HAVING THAT PROVISION AND WOULD PREFER TO DROP IT. I SUGGESTED HE DO NOTHING ABOUT THIS UNTIL AND UNLESS EGYPTIANS APPROACH HIM. I TOLD HIM I WOULD LET HIM KNOW OF ANY FURTHER PERTINENT DISCUSSION WITH GHANEM FOLLOWING DEPT RESPONSE.

5. COMMENT: RE PARA 3 STATE 120331, IT SHOULD BE NOTED ARTICLE VI IS SOLE REFERENCE IN NEW PROTOCOL TO PL 480 FUNDS. IF IT IS DELETED, EITHER AT GOE REQUEST OR BECAUSE BYRD FEELS IT SERVES NO PURPOSE IF EGYPTIAN EMPLOYEES NOT COVERED, THERE WOULD BE NO REFERENCE TO PL 480 FUNDS. HOWEVER, THIS COULD PRESUMABLY BE CORRECTED BY INCLUDING SUCH REFERENCE IN ANOTHER ARTICLE OF THE PROTOCOL.

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PAGE 03 CAIRO 11658 171920Z

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